Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102

To: The Commission

REPLY COMMENTS OF NEC AMERICA, INC.

NEC America, Inc. ("NEC") hereby submits these reply comments in the above-captioned proceeding. 1/ NEC, an affiliate of NEC Corporation, manufactures and markets a complete line of advanced communications products, including multiline telephone systems ("MLTS").

In its initial comments, NEC expressed its support for the adoption of FCC standards addressing the ability of MLTS equipment to deliver E911 call-back and location data of the caller, within reasonable parameters, such as those established in the proposals advanced by NENA and the E911 Consensus Group. 2/ Federal standards – preempting inconsistent state and local requirements where necessary – would assist equipment manufacturers by providing predictable,

---

1/ *See* Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Further Notice of Proposed Rulemaking*, FCC 02-326 (rel. Dec. 20, 2002) ("*Further Notice*").

2/ *See Further Notice* at ¶¶ 88-89 (referring to National Emergency Number Association ("NENA"), "Model Legislation, Enhanced 9-1-1 for Multi-line Telephone Systems" ("Model Legislation"); and letter from James Blaszak, Counsel for the Ad Hoc Telecommunications Users Group, to William Caton, Acting Secretary, FCC (Apr. 1, 1997) ("Consensus Group Proposal")).

nationally-uniform regulatory requirements for the design of their products. In addition, NEC stressed the importance of looking beyond the actual customer premises equipment ("CPE") to other factors that are impeding the delivery of E911 data from MLTS, such as the unnecessary costs placed on MLTS operators to support E911, resulting from the unavailability of updated, cost-effective network interfaces and database management methods. The positions advanced by NEC are reinforced by other comments filed in the proceeding.

I. The Record Contains Strong Support for Commission Action to Ensure E911 Compliance by MLTS Equipment

NEC is far from alone in believing that Commission action is needed to ensure the delivery of E911 data from MLTS. Significantly, it is the state and local entities that are most emphatic in their call for federal involvement.

For example, the Benton County, Washington PSAP stated that a "uniform, federal standard" requiring E911-complaint MLTS equipment would be in the best interest of the public, citing current limitations in the applicability of Washington state law on this issue. 3/ A similar attitude was reflected by the state-level E911 entity in Washington, which called for the Commission to implement the NENA recommendations "as rapidly as possible." 4/ Likewise, in Colorado, both the Boulder Regional Emergency Telephone Service Authority ("BRETSA") and the Colorado 911 Advisory Task Force ("Colorado Task Force") recommended that the Commission

---

3/ *See* Benton County Emergency Services E911 Program Comments at 3 ("Benton County").

4/ *See* Washington State Enhanced 911 Program Comments at 8 ("Washington State").

adopt the NENA standards. 5/ Finally, the Association of Public-Safety Communications Officials ("APCO"), whose membership consists largely of local and state public safety personnel, also supports Commission action in this area, stating that "unless the Commission acts to move the matter forward, delay will pervade." 6/

Commenters generally agreed with NEC that Commission involvement is needed to avoid, as Avaya stated, a state- and municipality-created "patchwork of incompatible regulatory schemes that would leave MLTS manufacturers in an untenable position." 7/ Even those commenters that question the Commission's authority to regulate MLTS equipment directly nevertheless recognize the importance of Commission involvement. The Telecommunications Industry Association ("TIA") stated that it "strongly agrees that the lack of uniformity in state regulations presents a problem. Some of these issues could be solved by overlaying a federal standard." 8/ Intrado correctly noted the failure of the "limited state and local government action taken thus far [to] adequately address[] the need to provide location and call-back

---

5/ *See* BRETSA Comments at 9 and the Colorado 911 Advisory Task Force at 4. Boulder, however, suggests that the Commission toughen the NENA ALI threshold, and require regular testing and verification of the MLTS ANI and ALI data and systems.

6/ *See* APCO Comments at 9-10.

7/ *See* Avaya Comments at 4.

8/ *See* TIA Comments at 14. Somewhat incongruously, TIA takes this position immediately after spending 12 pages arguing that the Commission does not have authority to regulate equipment manufactures. However, TIA concedes that, under certain circumstances, the Commission may rely on its regulation of carriers to establish technical standards for equipment connected to the network. *See id.* at 9, n.28.

information," and urged the Commission to address the issue "to the extent of its authority." 9/

As described above, the record is clear that the current piece-meal approach to promoting MLTS E911 capability is not working. The Commission should adopt nationally-applicable standards for MLTS equipment, such as those proposed by NENA. Alternatively, should the Commission determine that it does not possess adequate authority to impose such standards, it should work proactively with state and local entities, including state legislatures, to promote the adoption of substantially uniform requirements. Such action would be consistent with Commission's obligation, pursuant to the Wireless Communications and Public Safety Act of 1999 ("911 Act") to "encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans . . . ." 10/

II. Commenters Lend Support to NEC's Call for the Commission to Address Financial Disincentives to E911 Compliance for MLTS Operators.

In its comments, NEC proposed that the Commission take two concrete steps: (1) require local exchange central offices to be provisioned to permit connection of MLTS equipment for E911 purposes in any accepted industry standard format

---

9/ *See* Intrado Comments at 10.

10/ Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, § 3(b), 113 Stat. 1287 (Oct. 26, 1999).

requested by the MLTS operator; 11/ and (2) require LECs with responsibility over ALI database management to permit direct MLTS operator data entry into the ALI database. 12/ NEC explained how these steps would promote E911 deployment by lowering the cost of E911 provisioning for MLTS operators. 13/

Washington State highlighted this issue as well, stating that MLTS equipment purchasers:

> should expect that the [LECs] providing service to the MLTS will permit taking advantage of cost effective interfaces to the PSTN . . . . In some cases LECs have provided only one interface type that required additional service acquisition by the MLTS owner when the existing high capacity interface was fully capable of serving the E911 function. 14/

Likewise, Intrado echoed NEC's recommendation for opening access to the ALI database, stating that "because most incumbent 911 service providers are also local exchange providers, it is imperative that 911 service providers should permit open access to the 911 database for the uploading of PBX ALI records." 15/ The direct entry

---

11/ Specifically, central office switches should be upgraded to accommodate ANSI's ISDN network interface standard T1.628-2000. *See* NEC Comments at 6-8.

12/ *Id*. at 10.

13/ Such a proposal offers a solution, as Intrado suggested, that does not require wholesale changes to the network. Intrado Comments at 6.

14/ Washington State Comments at 7. As NEC explained in its comments, many MLTS operators are forced to purchase direct inward dial ("DID") numbers strictly for E911 purposes, although their existing ISDN service could obviate this cost if the LEC switch could accept the updated ISDN network interface standard.

15/ *See* Intrado Comments at 11.

of database records, in addition to being quicker and less costly, should also result in fewer database errors, an issue of concern cited by Boulder. 16/

NEC believes, based on precedent, that the Commission has adequate authority to impose these suggested requirements. As TIA noted in its comments, the regulation of common carriers may "include the imposition of technical requirements, applicable to equipment used in . . . the provider's network and/or service, which are necessary to the fulfillment of the statutory duties" assigned to the Commission. 17/ The Commission has previously imposed requirements on common carriers, even with regard to their intrastate services, when national security or emergency services were at issue. For example, section 64.401 of the Commission's rules mandates certain procedures for the restoration of vital telecommunications services, including intrastate services, during emergency situations. In adopting the provision, the Commission relied on the fact that it has jurisdiction over physically intrastate facilities that carry interstate traffic, 18/ and that the Communications Act "requires that the FCC promote the safety of life and property and ensure effective communications for the purpose of the national defense." 19/

16/ *See* Boulder Comments at 7-8.

17/ TIA Comments at 9, n.28.

18/ *See* National Security Emergency Preparedness Telecommunications Service Priority System, *Report and Order,* 3 FCC Rcd 6650, 6652, ¶13 (citing *NARUC v. FCC*, 746 F.2d 1492, 1498-99 (D.C. Cir. 1984)).

19/ *Id*. (citing 47 U.S.C. § 151).

In another example, section 63.100 requires local exchange carriers to report service outages affecting 911 service. In adopting this rule, the Commission explicitly rejected the argument that 911 service is local in nature and that there was no reason for the FCC to collect information on 911 service outages. 20/ The Commission stated that "[w]e reject suggestions that the reliability and efficiency of 911 systems are not of Commission interest. . . . The reliability of 911 service is integrally related to our responsibilities under Section 1 of the Act, which include 'promoting safety of life and property through the use of wire and radio communication.'" 21/

Moreover, section 68.110(c) serves as an example, as NENA and NASNA point out, 22/ of where the Commission has incrementally gone beyond the original purpose of its Part 68 rules – protecting the network from harm – to encourage competition and consumer choice. Section 68.110(c) requires telecommunications carriers to provide building owners with technical information related to inside wiring they have installed. (In the majority of cases, the carrier at issue will be the LEC.) The Commission found that the "exclusive possession of such information may give the telephone company an unfair market advantage." 23/ The Commission was

---

20/ *See* Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions, *Second Report and Order*, 9 FCC Rcd 3911, ¶33 (1994).

21/ *Id.*

22/ *See* NENA/NASNA Comments at 11, n.20.

23/ Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network, *Order on Reconsideration,*

specifically concerned about enabling building owners to maintain and service the wiring systems themselves or to retain a third-party inside wiring maintenance and management firm. 24/

NEC's proposed requirements raise analogous issues to the precedent cited above. The central office switches in need of upgrade are physically intrastate facilities that are used in the provision of interstate communications. Moreover, E911 is increasingly viewed as a having national implications for homeland security. 25/ The proposal for direct entry of data into the ALI database would provide MLTS operators the choice of self-provisioning this function and would eliminate any "unfair market advantage" maintained by the LEC in providing this service. Accordingly, the Commission should proceed consistent with its prior precedent and require LECs to implement the measures proposed by NEC to promote the efficient provisioning of E911-capable MLTS equipment.

Second Report and Order and Second Further Notice of Proposed Rulemaking, 12 FCC Rcd 11897, ¶ 30 (1997).

24/ *Id.*

25/ In his recent report on wireless E911, Dale Hatfield made a strong case regarding the federal interest in E911, stating that:

> [T]he critical role played by E911 systems and services in assuring homeland security . . . make the automatic provision of location information with wireless emergency calls as much a national priority as a local one. That is, while immediate emergency response is, almost by necessity, primarily a local government responsibility . . . there is a strong Federal interest in the performance of such systems, especially where homeland security is involved.

See A Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 9-1-1 Services, WT Docket No. 02-46, at 16 (2000) ("Hatfield Report"). Although Mr. Hatfield's analysis focused on wireless E911, the same principles apply to wireline E911.

III. The Commission Should Reject Requests that Would Eliminate the "E" from E911

As a manufacturer of E911-compliant MLTS equipment, NEC has proven that the such equipment is "technically and operationally feasible." 26/ Accordingly, there is no reason to exempt wireline MLTS equipment from providing location and call-back information. 27/ The United Telecom Counsel ("UTC") asked that the Commission not require MLTS to provide ANI/ALI for the terminal equipment that originates the call. 28/ UTC seems to ignore the fact that the whole point of *Enhanced*-911 is, in fact, to provide ANI and ALI data that emergency responders can use to locate the caller. Except for small enterprises, providing only the building's main street address is not an effective means of ensuring that assistance can reach the caller in a timely manner.

Similarly, TIA stated that the NENA Model Legislation would be an acceptable alternative to FCC-adopted standards, *provided that* general (*i.e.*, not specific to the caller's terminal unit) location identification and call-back numbers were permitted, and that there be no mandate on individual station identification. 29/ TIA acknowledged no recognition of the fact that its suggested "modification" of the

---

26/ *Further Notice* at ¶ 13. Likewise, Avaya, another equipment manufacturer, also "generally supports" the MLTS proposals in the *Further Notice*. *See* Avaya Comments at 1-2.

27/ NEC's comments explained the limitations pertaining to wireless PBX systems. *See* NEC Comments at 11-12.

28/ *See* UTC Comments at 9.

29/ *See* TIA Comments at 14.

Model Legislation would render the NENA proposal largely meaningless. Moreover, while effectively rejecting the key elements of the NENA proposal, both TIA and UTC call for the development of standards that result from "industry consensus," precisely the method used to formulate the NENA Model Legislation. 30/ The Commission should reject such calls for deleting the "enhanced" aspect from E911 in the MLTS context. MLTS users both expect and deserve *real* E911.

CONCLUSION

For the foregoing reasons, the Commission should adopt NEC's proposals and take steps to eliminate the unnecessary costs placed on MLTS operators to support E911 that result from the unavailability of updated, cost-effective network interfaces and ALI database management methods.

Respectfully submitted,

NEC AMERICA, INC.

By: *___/s/ Ari Q. Fitzgerald_____*
Ari Q. Fitzgerald
David L. Martin
HOGAN & HARTSON L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
(202) 637-5600

Its Attorneys

Dated: March 25, 2003

30/ *See* UTC Comments at 8; TIA Comments at 14.